

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:11cv11**

**ANNA DARLENE MURPHY and
husband, STEVEN MURPHY,**

Plaintiffs,

v.

**AUTO ADVANTAGE, INC., an Iowa
Corporation, et al.,**

Defendants.

ORDER

_____ Pending before the Court is the Motion to Compel [# 24]. Discovery in this case closed January 1, 2012. On January 3, 2012, Plaintiff moved to Compel Defendants to respond to discovery requests, provide initial disclosures and resume the deposition of Kevin Geagan. The time for moving to compel Defendants to produce documents, respond to interrogatories, or resume depositions having passed, the Court **DENIES** Plaintiff's motion [# 24].

I. Analysis

Rule 37 of the Federal Rules of Civil Procedure does not specify a specific time limit for the filing of a motion to compel. See Fed. R. Civ. P. 37; PCS Phosphate Co. v. Norfolk Southern Corp., 238 F.R.D. 555, 558 (E.D.N.C. 2006). Absent a specific order from the Court in the scheduling order, a party must generally move to compel a party to comply with a discovery request prior to the close of discovery or the motion is untimely. See Days Inn Worldwide, Inc. v. Sonia Invs., 237 F.R.D. 395, 397-98 (N.D. Tex. 2006) (collecting cases); Rudolph

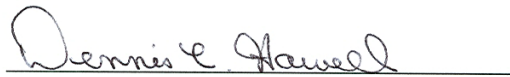
v. Buncombe Cnty Gov't, No. 1:10cv203, 2011 WL 5326187 (W.D.N.C. Nov. 4, 2011) (Howell, Mag. J.); Lane. v. Lucent Techs., Inc., No. 1:04cv789, 2007 WL 2079879 (M.D.N.C. Jul. 13, 2007).

Discovery in this case closed January 1, 2012. In the Court's December 19, 2011, Order, the Court instructed Plaintiff that she had until the close of discovery to file any motion to compel. (Order, Dec. 19, 2011.) Plaintiff, however, waited until January 3, 2012, to file her motion to compel. The time for filing discovery motions and moving to compel the production of documents, answers to interrogatories, or depositions has passed. Accordingly, the Court **DENIES** as untimely the Motion to Compel [# 24].

II. Conclusion

The Court **DENIES** the Motion to Compel [# 24].

Signed: January 5, 2012



Dennis L. Howell
United States Magistrate Judge

